Further comments on 99-25

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9/27/2011

Equal is equal

Equal is the word used in the LCRA (Section 5, part 3). Is this to be enforced or ignored?

Equality of process

Dismissal of thousands of translator applications to make way for a few LPFM applications is not "equal" treatment. But that is what is being proposed.

Now some commentators are saying that the translator applications filed in 2003 were not applications at all, just expressions of interest, and should not be treated seriously. They should be set aside without processing for the good of the collective. Those who spent many thousands of dollars for the engineering and legal services would disagree.

Equality of facilities

LPFM and translator facilities are currently similar in scope, but different in their allocation process. The inherent distinction is in their usage – The content on an LPFM is locally generated whereas the content on translators is rebroadcast from other facilities.

But the allocation process is different. LPFMs use a spacing allocation and are not required to protect much at all – the 70 dBu contour of move-ins is insufficient to protect the "protected contour" of these full service stations. The allocation assumes a one size-fits-all mindset – 100 watts omnidirectional at 100 feet going 10 miles (at best). This invitation to interfere is causing tremendous difficulty for both the existing broadcasters and the LPFMs.

In contrast, translators must protect all other services from interference. The application process is very careful to maintain the integrity of the FM band. Heights, power, directional patterns, number of bays, location and frequency are carefully engineered to this end. Few problems arise because of this responsible approach. Also, some translators can be used to reach much more population than an LPFM at the same site, due to the 250 Watt maximum power at low elevations and the 10 watt minimum power at high elevations (LPFM is 1 watt).

Equality of opportunity

LPFM had the first of the windows (in 2000-2001), and first shot at the spectrum. There was not a large turnout of applications. Commercial band translators had their window on 2003, and considerably more interest was demonstrated – hundreds of times more interest. But when were the noncommercial band translators given their last opportunity to file? Well over a decade ago! Commercial FMs have been having windows all along this process. Where is the fairness?

Now, with a decade having elapsed, it is appropriate for LPFM to have another window, and there will be some new interest. But where is the fairness to the noncommercial translators?

And why are we talking about decades here? Why are there not mere weeks between windows? Surely the Communications Act did not envision new entrants to radio being forced to wait years before being granted a one week long opportunity to request a station?

Proposal for Equality

If the allocation rules were identical, no complaint of unfairness could be lodged.

If the allocation rules were identical, aspiring LPFM applicants could buy languishing translators and get on the air immediately with their local programming. That is certainly fair.

If all applications were processed, no complaint of unfairness could be lodged.

If LPFM and translator applications were filed in the same window, no complaint of unfairness could be lodged.

If LPFM/translator windows were opened monthly (similar to the A and B cutoff windows of the pre-2000 era), no complaint of unfairness could be lodged.

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If we do not resolve these equality issues, and resolve them quickly, this proposal will devolve into another decade of litigation and no new radio applications, and all parties be frustrated. But if we move to provide frequent, fair and equal filing opportunities for all parties, there will be no problem.